

Bruchez et al.
Serial No. 10/735,608

Docket No.: IVGN 620.2 CIP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Bruchez et al.)	Examiner: Jung, Unsu
)	
Serial No.: 10/735,608)	Group Art Unit: 1641
)	
Filed: December 12, 2003)	Confirmation No.: 1956
)	
For: METHOD FOR ENHANCING)	Docket No.: IVGN 620.2 CIP
TRANSPORT OF SEMICONDUCTOR)	
NANOCRYSTALS ACROSS BIOLOGICAL)	
MEMBRANES)	

PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a)

Mail Stop Petitions

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The above-identified application became abandoned for failure to timely respond to the Final Office Action due December 10, 2009. The date of abandonment is the day after expiration of the period set for responding to the Final Office Action mailed June 10, 2009. This petition is submitted within 2 months of the Notice of Abandonment mailed December 28, 2009. Accordingly, this petition is timely filed.

Applicants believe that the instant petition under 37 C.F.R. § 1.181 (a) does not require a fee. In the event that additional fees are required, Applicants herein authorize the Commissioner to charge these fees or credit any overpayment associated with this or any other filing to Applicants' deposit account. This is not an authorization to pay the issue fee.

Applicants hereby petition to withdraw the holding of abandonment based on failure to receive the Final Office Action mailed June 10, 2009. Applicants believe that the following statement and evidence satisfies the requirements as specified by the USPTO regarding a grantable petition under 37 CFR § 1.181 (a).

Statement to Establish Non-Receipt of Office Action

As an initial matter, Applicants would like to thank the Examiner for telephoning the agent of record on December 16, 2009, to inform the agent that no response to the outstanding Final Office was received by the Office within the six (6) statutory time period for filing a response and to verify whether Applicants were intending to allow the instant application to lapse.

As the agent for Applicants, I have reviewed the file and docket records and hereby state that the Final Office Action, mailed June 10, 2009, in U.S. Patent Application Serial No. 10/735,608 was not received by Applicants. At no time did Applicants intend to abandon the subject application.

Following is evidence to support the fact that the Final Office Action was not received at the correspondence address of record.

CPA Global IPSS is responsible for receiving incoming correspondence from the USPTO, docketing due dates, and filing the documents in an electronic file management system on behalf of Life Technologies Corporation. All USPTO correspondence in the instant application is mailed to Life Technologies c/o CPA Global IPSS (Intellevate). Following are the procedures used by CPA Global IPSS for processing mail and docketing USPTO due dates.

- ii) Incoming correspondence is received and entered into the mail log daily.
- ii) Correspondence is then forwarded to a docketing clerk. The correspondence is reviewed by the docketing clerk, and the due date for filing a response to the correspondence is calculated and docketed.
- iii) The document is then uploaded into the document management system in a new activity that shows the relevant due date as determined by the docketing clerk.
- iv) Once uploaded and docketed, a notification is sent electronically to the agent of record.

Attached hereto as Exhibit A are computer screen shots of the electronic file record for the instant application. The electronic file record shows an entry (Non-Final Office Action Response), dated March 4, 2009, and an entry (Notice of Abandonment Received), dated December 28, 2009. The electronic file record is missing an entry indicating receipt of the Final

Bruchez et al.
Serial No. 10/735,608

Docket No.: IVGN 620.2 CIP

Office Action on or after June 10, 2009.

Also attached hereto as Exhibit B, as proof of non-receipt of the Final Office Action, is a copy of the docket record for September 10, 2009, showing all replies docketed for a date three (3) months from June 10, 2009, the mail date of the non-received Office Action. The docket report for September 10, 2009 Final Office Action does not show an entry for filing of a Response to Final Office Action in the instant application.

The foregoing provides evidence that the Final Office Action mailed June 10, 2009, was not received by the Applicants and that the Applicants' agent was not notified of receipt of the Final Office Action or made aware of the due date for filing a response to the Office Action. Accordingly, Applicants respectfully request that this application be withdrawn from abandonment and the non-received Office Action re-issued.

In the event that further documentation is believed necessary, please contact the undersigned at the phone number shown below.

Respectfully submitted,

Date: January 29, 2010

/Karen B. Geahigan/
Karen Geahigan, Reg. No. 52,936

Enclosures:

- (1) Exhibit A: Electronic file record
- (2) Exhibit B: Docket report for September 10, 2009

Life Technologies Corporation
Customer No. 52059
Phone: (541) 335-0070
Facsimile: (760) 476-6048

Bruchez et al.
Serial No. 10/735,608

Docket No.: IVGN 620.2 CIP

EXHIBIT A
SCREEN SHOTS OF ELECTRONIC FILE FOR
U.S. APPLICATION 10/735,608

Bruchez et al.
Serial No. 10/735,608

Docket No.: IVGN 620.2 CIP

EXHIBIT B

DOCKET REPORT FOR SEPTEMBER 10, 2009

Report

Name: 000 Daily Due Dates-Date Range
Categories: LIFE - Docket Reports Daily
Description: Daily due dates and final due dates for specific date range



Displaying page 1 of 1 16 results returned.

Output Format: HTML

[Download](#) [Email Results](#)

Daily Due Dates for Date Range

Jan 5, 2010 4:12:44 PM

Results for
Date Date Range Sep 10, 2009 thru Sep 10, 2009

FILE NO	APLN	TODAYS DUE DATE
---------	------	-----------------------

<u>4495-C2</u> US	12/240,924	9/10/09
----------------------	------------	---------

<u>4495-C2</u> US	12/240,924	9/10/09
----------------------	------------	---------

5088-D1 US	12/207,909	9/10/09
---------------	------------	---------

<u>5321 US</u>	11/375,825	9/10/09
----------------	------------	---------

5416 US	11/767,327	9/10/09
---------	------------	---------

6163 US	11/673,787	9/10/09
---------	------------	---------

6536 US	10/238,480	9/10/09
---------	------------	---------

BP-0102- 11/616,080 9/10/09
D4 US

BP-0102- 11/616,080 9/10/09
D4 US

BP-0102- 11/616,080 9/10/09
D4 US

IVGN 405 09152328.2 9/10/09
EP DIV (L)

IVGN 837.8 12/491,948 9/10/09
CON

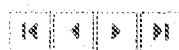
IVGN 837.8 12/491,948 9/10/09
CON

IVGN 841.1 11/627,279 9/10/09
DIV

LT00043.12 11/637,613 9/10/09
CON

LT00043.7 11/637,665 9/10/09
CON

16 results displayed.



Displaying page 1 of 1